

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY



MARTIN LUTHER KING JR. FEDERAL BLDG. & U.S. COURTHOUSE  
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WILLIAM J. MARTINI  
JUDGE

**LETTER OPINION**

February 15, 2006

David E. Schafer  
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*(Attorney for Petitioner)*

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*(Attorney for Respondents)*

**Re: Stuart v. Brown, et al.**  
**Docket No.: 01-cv-3146 (WJM)**

Dear Counsel:

On August 5, 2004, this Court entered an order denying Plaintiff's petition for writ of habeas corpus. This matter now comes before the Court on Plaintiff's motion to reopen the time to file an appeal pursuant to Fed. R. App. P. 4(a)(6). For the reasons stated below, this motion is **DENIED**.

Under Rule 4(a)(6), a district court may reopen the time to file an appeal if the motion to reopen is filed "within 180 days after the judgment or order is entered or within 7 days after the moving party receives notice of the entry, whichever is earlier." Plaintiff's attorney Mr. Schafer asserts that he and his client did not become aware of this Court's order until August 8, 2005.

Even if this Court were to accept Mr. Schafer's statement as fact,<sup>1</sup> Plaintiff did not file the instant motion until January 12, 2005, well over a year after entry of the order and over five months after Plaintiff received notice of the order. As such, this Court finds that Plaintiff's motion does not meet the requirements as set forth in Rule 4(a)(6), and this motion is **DENIED**.

s/ William J. Martini  
**WILLIAM J. MARTINI, U.S.D.J.**

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<sup>1</sup> This Court notes that it notified Plaintiff directly of the order via regular mail and, in addition, notified Mr. Schafer via electronic mail. In neither case was such notice returned to this Court as undeliverable.